



This document is scheduled to be published in the Federal Register on 07/15/2016 and available online at <http://federalregister.gov/a/2016-16599>, and on FDsys.gov

BILLING CODE: 3410-90-P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

RIN 0503-AA59

Designation of First Assistants

AGENCIES: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document amends the existing delegations of authority to provide for the designation of First Assistants to positions to which appointment is required to be made by the President with the advice and consent of the Senate.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION: Section 3345 of title 5, United States Code, provides that when an officer of an Executive agency whose appointment is required to be made by the President with the advice and consent of the Senate dies, resigns, or is otherwise unable to perform the functions and duties of the office, the first assistant to the office of such officer (“First Assistant”) may perform temporarily the functions and duties of the office in an acting capacity. This rule authorizes the Secretary to establish a First Assistant to each office within the Department of Agriculture to which appointment is required to be made by the President with the advice and consent of the Senate (“PAS office”).

If there is a principal deputy position to the PAS office, the principal deputy position is the First Assistant. If there is no position with the title “principal deputy,” but there is one, and only one, deputy position to the PAS office, that deputy position is the First Assistant. If there is more than one deputy position to the PAS office, and the delegations of authority by the Secretary published in Part 2 of title 7 of the CFR establish which deputy has the authority to perform all the duties and exercise all the powers of the PAS office, then that deputy delegated such authority is the First Assistant.

If there is no position or deputy that qualifies as a First Assistant under these tests, then the Secretary may designate in writing a First Assistant position to the PAS office, with the exception of the Inspector General.

Classification

This rule relates to internal agency management. Accordingly, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. This rule also is exempt from the provisions of Executive Order 12866. This action is not a rule as defined by the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 et seq., or the Congressional Review Act, 5 U.S.C. 801 et seq., and thus is exempt from the provisions of those acts. This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects

7 CFR Part 2

Authority delegations (Government agencies)

Accordingly, 7 CFR part 2 is amended as follows:

PART 2 – DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE
AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

Authority: 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR 1949-1953 Comp., p. 1024.

2. Add § 2.6 to Subpart B to read as follows:

§ 2.6 Designation of first assistants.

(a) Every office within the Department to which appointment is required to be made by the President with the advice and consent of the Senate (“PAS Office”) may have a First Assistant within the meaning of 5 U.S.C. 3345-3349d.

(1) Where there is a position of principal deputy to the PAS Office, the principal deputy shall be the First Assistant.

(2) Where there is only one deputy position to the PAS Office, the official in that position shall be the First Assistant.

(3) Where there is more than one deputy position to the PAS Office, and this Part establishes which deputy is delegated the authority to perform all the duties and exercise all the powers of the PAS Office during the absence or unavailability of the PAS official, the deputy delegated such authority shall be the First Assistant.

(4) Where neither paragraph (a)(1), (2), nor (3) of this section is applicable to the PAS Office, except as provided in paragraph (b) of this section, the Secretary may designate in writing the First Assistant position.

(b) The Inspector General of the Department shall determine any arrangements for the temporary performance of the functions and duties of the Inspector General when that office is vacant.

Thomas J. Vilsack,

Secretary of Agriculture.

[FR Doc. 2016-16599 Filed: 7/14/2016 8:45 am; Publication Date: 7/15/2016]